

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

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ACDA-05 IO-10 SAJ-01 /075 W
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FM AMEMBASSY BONN

TO USMISSION USBERLIN PRIORITY

INFO SECSTATE WASHDC 4587

AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 19086

C O R R E C T E D C O P Y (CORRECTION DELETE FIRST PARA 4)

E.O. 11652: GDS

TAGS: PGOV PFOR PINT WB GW UR

SUBJECT: SOVIET PROTEST AT INVALIDATION OF BERLIN
ELECTIONS

REFS: (A) USBERLIN 2316; (B) USBERLIN 2291

BEGIN SUMMARY. EMBASSY BELIEVES THE SOVIET PROTEST
CONCERNING THE DECISION OF THE BERLIN ELECTORAL COURT
IS BASED ON AN EXPLOITATION OF AN AMBIGUITY IN THE
RUSSIAN TEXT OF THE RELEVANT PROVISION OF THE QUADRI-
PARTITE AGREEMENT. WE RECOMMEND THAT THE PROPOSED
ALLIED REPLY BE MODIFIED TO TAKE ACCOUNT OF THIS FACTOR.
END SUMMARY.

1. WE ASSUME THAT, IN ACCORDANCE WITH USUAL PRACTICE,
OUR BONN GROUP COLLEAGUES WILL NOT WISH TO ENTER INTO
A DISCUSSION OF THE RESPONSE TO THE NOVEMBER 20 SOVIET
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PROTEST UNTIL THE BERLIN MISSIONS FORWARD AN AGREED TEXT

TO THE BONN GROUP FOR CONSIDERATION. WE WOULD, HOWEVER, LIKE TO OFFER OUR COMMENTS ON THE TEXT PROPOSED BY USBER (PARA 4 REFTEL A), FOR CONSIDERATION IN THE BERLIN DRAFTING PROCESS.

2. IN EMBASSY VIEW, THE USBER DRAFT DOES NOT MEET THE SOVIET PROTEST HEAD ON. OUR READING OF THE PROTEST IS THAT WHAT IS INVOLVED IS ANOTHER LINGUISTIC DISCREPANCY, OR AT LEAST AMBIGUITY, IN THE QUADRIPARTITE AGREEMENT WHICH MAY NOT HAVE COME TO LIGHT HERETOFORE.

3. AT ISSUE IS THE SENTENCE OF ANNEX II WHICH FOLLOWS THE STATEMENT THAT THE WESTERN SECTORS CONTINUE NOT TO BE GOVERNED BY THE FEDERAL REPUBLIC AND WHICH READS, IN THE ENGLISH VERSION OF THE QA, AS FOLLOWS:

"THE PROVISIONS OF THE BASIC LAW OF THE FEDERAL REPUBLIC OF GERMANY AND OF THE CONSTITUTION OPERATIVE IN THE WESTERN SECTORS OF BERLIN WHICH CONTRADICT THE ABOVE HAVE BEEN SUSPENDED AND CONTINUE NOT TO BE IN EFFECT."

4. IT IS CLEAR FROM THE ENGLISH AND FRENCH TEXTS THAT THE ANTECEDENT OF "WHICH" IN THE ABOVE PASSAGE IS "PROVISIONS." THIS IS NOT SO CLEAR IN THE RUSSIAN TEXT, WHICH, IF TRANSLATED BACK INTO ENGLISH WITH THE RUSSIAN PUNCTUATION RETAINED, WOULD READ AS FOLLOWS:

"THE PROVISIONS OF THE BASIC LAW OF THE FEDERAL REPUBLIC OF GERMANY AND OF THE CONSTITUTION, OPERATIVE IN THE WESTERN SECTORS OF BERLIN, WHICH CONTRADICT THE ABOVE, ARE SUSPENDED AND AS BEFORE ARE NOT IN EFFECT."

5. GIVEN THE REQUIREMENT THAT ALL RELATIVE CLAUSES IN RUSSIAN BE SET OFF BY COMMAS, IT IS IMPOSSIBLE TO TELL WHETHER THE ANTECEDENT OF "WHICH" IS "PROVISIONS" OR "BASIC LAW...AND CONSTITUTION." IT WOULD SEEM TO BE AN ABSURDITY TO ACCEPT THE LATTER INTERPRETATION, SINCE IT WOULD MEAN THAT ALL OF THE BERLIN CONSTITUTION HAS BEEN SUSPENDED. NEVERTHELESS, THIS APPEARS TO BE PRECISELY WHAT THE SOVIETS ARE SAYING IN THEIR CONFIDENTIAL

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NOVEMBER 20 PROTEST. AS REPORTED IN PARA 2, REF (A), THE SOVIET STATEMENT PARAPHRASES THE WORDING OF ANNEX II AND CLAIMS "THAT THE PROVISIONS OF THE BASIC LAW OF THE FRG AND OF THE CONSTITUTION...ARE SUSPENDED...."

6. WE THEREFORE BELIEVE THAT THE FINAL SENTENCE OF THE USBER DRAFT REPLY SHOULD BE REPLACED BY ONE WHICH SPECIFICALLY ATTACKS THIS INCORRECT READING OF THE QA.

SUCH A SENTENCE MIGHT STATE THAT IT IS CLEAR FROM THE
QA THAT ONLY THOSE PROVISIONS OF THE BASIC LAW AND OF
THE BERLIN CONSTITUTION WHICH ARE INCONSISTENT WITH THE
PRINCIPLE THAT THE WSB CONTINUE NOT TO BE A CONSTITUENT
PART OF THE FRG AND NOT TO BE GOVERNED BY IT HAVE BEEN
SUSPENDED.

7. WHEN THE REPLY IS DELIVERED, KHOTULEV MIGHT BE GIVEN

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 19086

NOT ONLY A COPY OF BK/O(50)75, AS SUGGESTED BY USBER,
BUT ALSO AN EXPLANATION THAT THE SOVIETS ARE OFF BASE
IN THEIR ATTEMPT TO RESOLVE THE AMBIGUITY IN THE
RUSSIAN TEXT IN THEIR FAVOR. SUCH A DISCUSSION MIGHT
AT A MINIMUM SMOKE OUT THE REAL MOTIVES BEHIND THE
SOVIET PROTEST.
HILLENBRAND

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